

SENATOR HENRY M. TELLER DENOUNCES COLORADO'S POLICY TOWARD UNIONS

TO pass upon the conditions now existing in Colorado does not require a determination of the justice of the strike which began a year ago. From the information which I then had I did not consider that extreme measures were justified, and so publicly declared.

The right of dissatisfied laborers to quit work must be conceded by all right-thinking people; but that right does not justify the forcible prevention of working of others who are not dissatisfied, and, therefore, willing to work.

Labor organizations, here and elsewhere, have not always acted wisely or justly; and individual members have been guilty of misconduct toward both employers and fellow-laborers. That, however, does not justify either the destruction or the prohibition of such organizations. These unions, of labor for mutual benefit, are as old as history. Today in every civilized land such organizations exist, not only with the consent of the government, but often with its encouragement. Their entire legality has been established by a long line of decisions.

That they have been useful in encouraging a laudable ambition among workers, and have been a distinct and immediate agency in the prevention of the world's labor, no man familiar with the history of the race will dare deny; but the right of combination, and the fact that such combinations may and probably will be advantageous to the laborer, does not justify any interference with the laborer's right to combine. It is not only a crime against the individual rights, but a crime against the organization itself. Its benefits to labor must depend on its ability to help its membership. It must have faith among its members, born not of fear, but of the hope and expectation of benefits to be derived from such connection.

The Laborer's Option

To say that because a man is a laborer working for hire he must, therefore, join a labor organization is an absurdity; but, if possible, it is a greater absurdity to say that he shall not be allowed to do so if he thinks it is for his interest that he should. All labor is but a means to an end, and for mutual benefit, and labor unions, labor guilds, society of workmen, organizations of lawyers, doctors, teachers, professions of all kinds, chambers of commerce and boards of trade are but the recognition of the benefits which may be secured by combination of people having a like interest. How does the Citizens' alliance, the Mine Owners' association differ in principle from the miners' union?

Perfect freedom should be allowed to labor organizations by all proper means, to convince individuals of the benefits derived from membership therein. It is now said that the interests of the people of Colorado demand the dissolution of the Miners' union. This is justified by charges that the Miners' union, or members thereof, have committed crimes against the laws of the land. If crimes have been committed by order, direction, or approval of the union, the perpetrator of such crimes and all accessories ought to be punished. No man can be held liable for the crime of another. But it is said that proof cannot be had against such perpetrators, and, therefore, we must punish innocent and guilty alike. What has become of that old maxim that the evidence must be such that a man is guilty until proven guilty by due course of law?

Such procedure is and must necessarily be wholly unjust. It is a penalty inflicted upon law-abiding citizens for exercising their legal right to become members of a labor organization. It is a procedure, not only without the sanction of law, but is in gross violation of rights secured by the constitution of the state.

If the miners cannot combine, why should the mine owners be allowed to do so? If members of the Miners' union are to be charged en masse with every crime committed by any one of the members, why are not the members of the Mine Owners' association to be charged with every offense against the person or property of union men? The injustice is as great in the one case as in the other.

This controversy has gone on for several months, and what has been the result?

Use of the Militia

The militia was called out supposedly to help enforce the law; to assist the civil authorities to protect persons and property. It was soon asserted by the officers in command that the civil authorities, especially the judiciary, were not necessary to the militia's statement that could be true only on the theory that the governor had proclaimed martial law. This the governor denied. I do not believe the governor has the authority to declare martial law. The king of England has not, at least so Blackstone asserted, and certainly no king of England would dare to do it now, nor has any done so for hundreds of years.

The supreme court of the United States, in the case of *Luther v. Borden*, 7 Howard, Taney, C. J., delivering the opinion of the court, establishes the doctrine that the legislature of a state has no authority to declare martial law. Blackstone declared that the declaration of martial law was a legislative act.

In 1793 there was a great disturbance in Pennsylvania, called "Shay's rebellion." The military was called out, and the governor of the state gave the following order to the officer in command:

Declares That Deportation of Miners Against Whom No Crime Could Be Proved Was in Violation of Americans' Most Sacred Rights.

(U. S. Senator Henry M. Teller of Colorado, in the Rocky Mountain News.)

The Whisky Rebellion

In 1793, there was trouble in western Pennsylvania, usually called the "whisky rebellion." The judge of the United States court, certified to the president that the United States marshal was unable to execute the warrants of the court. The president, George Washington, ordered a portion of the United States army sent to that section, and gave this instruction:

"The army should not consider themselves as judges or executioners of the law, but only as employed to support the authorities in the execution of the law." In neither of these cases was there martial law.

During the civil war, Jefferson Davis suspended the writ of habeas corpus and proclaimed martial law in several of the southern states. In a large number of cases brought before the Confederate courts by the civilians arrested by the military, the courts on petition released the prisoners and decided that there should be neither suspension of the writ of habeas corpus nor a declaration of martial law by any other authority than the supreme legislative authority.

The calling out of the militia by the governor does not create martial law, and does not suspend the writ of habeas corpus, although I understand the governor holds that it does. It does not make the civil authorities subordinate to the military, even when the military is in the field, and does not suspend the functions of the civil officers in the state.

The constitution of Colorado declares that the militia shall always be in subordination to the civil powers. We must have either a civil government or a government by the military forces, that is, martial law. We cannot have both a civil government and martial law at the same time and in the same place.

Martial law means the will of the commander-in-chief, and his will is law—absolute law. He may, under martial law, set aside the constitution and the statutes, disregard the decisions of the courts, and the life and liberty of the people are in his hands. He is an autocrat, he may be a tyrant.

The supreme court of the United States in 1866 said: "It is the birth-right of every American citizen, when arrested with crime, to be tried and punished according to law." See *Ex Parte Milligan*, 4 Wall, 119.

Entitled to Trial

If these deported men are guilty of crimes, they are entitled to a trial before punishment. If not guilty of crimes, then the authorities, civil or military, that deprive them of their liberty, are entitled to them the rights to select their domicile in any part of the state they choose, are guilty of crimes against the individuals, as well as against the state.

Three counties have been declared by the governor in a state of insurrection, and have been ruled by the adjutant-general of the state under this proclamation. I say "ruled" because he has not acted as a support to the civil authorities, but, on the contrary, as independent of and in some cases in opposition thereto.

First, was there an insurrection in either of the counties named by the governor? The usual definition of the word "insurrection" is "rising against civil or political authority; the open and active opposition of a number of persons to the execution of the law in a state, a rebellion; a revolt." And the parties taking part in such open and active opposition to the execution of the laws are called "insurgents," or "insurrectionists."

Again, the "insurrection" is defined as "a rising up of individuals to prevent the execution of law by force of arms."

Can any one pretend that, under these definitions, the people were in insurrection in any part of the state?

The most that has been asserted by any one claiming a knowledge of the facts, that in any one locality, the miners had been guilty of lawlessness, hardly rising to the plane of "domestic violence" or "civil commotion," which designate a condition very far short of insurrection.

The Governor's Duty

If the governor believed that the civil authorities could not execute the laws of the state, alone and unaided, it was his duty to call so much of the military force of the state as might be necessary to secure, by order and a due execution of the law, the full protection of the persons and property of all the inhabitants of the state. It was not necessary that the people should be in a state of insurrection before he made such call.

The constitution of Colorado makes it his duty to "take care that the laws be faithfully executed." It also provides "he shall have power to call out the militia to execute the laws, suppress insurrection or rebel invasion."

As he had full power to call out the militia to execute the laws, he did not need to find that there was insurrection before calling out the militia.

I do not intend to call in question his judgment in so calling out the militia. I do, however, have serious doubts as to whether he has been made by the governor to suppress this uprising. On the contrary, he has given it his open approval.

Wholesale Arrests

Then began the arrest of a large number of citizens who are not charged with any specific crime, and they were put in the "bullpen" or military prison. Subsequently a large number of miners were seized by the military and put on board the cars, deported to the confines of the state, put out of the cars and told that they must not return to their homes.

When the constitution gave him the authority to call the militia to execute the laws, it imposed on him the duty to see that violations of the law were duly punished by the usual and ordinary methods provided by law; that is, through and by the civil authorities.

In addition to the punishment of crimes, it becomes his duty to see that there was due protection given to the persons as well as the property of the people, and to all free citizens the protection of the person—securing to the citizen his political and civil rights—has always been considered more important than the protection of property rights.

What Has Been Done

It is but right that we now consider whether the purpose for which the military force was called out has been accomplished, and for which they were called, that is, the due execution of the laws of the state, the protection of the person and property rights of the citizen.

I have already stated that the officers in command of the militia declared the judiciary and other civil authorities were subordinate to the military. It is evident that both the governor and his military officers proposed to bring out the militia, he secured all the powers that he would have had if martial law had been legally established. This will be admitted by all who have kept informed as to the measures taken in the localities where the military were in control.

At Cripple Creek, a judge of the district court issued a writ to the commanding officer of the militia, to bring the body of a certain citizen, then held by the military, into his court. The officer in command did comply with the writ, and brought into the courthouse and into the court the prisoner (against whom no charge had been made); brought him into court under a military guard, and issued his commands to such guards in the presence of such judge, and in the presence of the court. On the discharge of the prisoner by the court, after the hearing of the case, the officer in command informed the court that the prisoner would be returned to the custody of the military, and would not be obeyed. I believe an order from the governor was required to secure a compliance with the order of the court.

It is said—and I have never heard it denied—that when some one said that certain acts of the military were contrary to the provisions of the constitution, a major of the militia said: "Go hell with the constitution; we are not following the constitution; we are following the constitution of the militia." We are under orders only from God and Governor Peabody.

These declarations, or supposed declarations, have not only been published in Colorado, but throughout the United States, and in some of the most reputable journals of the day; statements of a like character, or even worse, have been made by the military, and the published statements over his own signature are enough to show his character, and I will add, his unfitness to command.

The adjutant-general soon established a censorship over the press, and threatened the papers with his displeasure if they published anything disagreeable to him.

The Bullpen

Men who had come under the displeasure of the officer in command were arrested, thrown into the military prison, usually called the "bullpen," without warrant and without charges, and kept there during the pleasure of the military officer in command, and then turned out without even being told what crime they had been suspected of.

On the 6th day of June there was a dynamite explosion at Independence that destroyed the railroad depot and platform and killed and wounded a large number of men. It was a horrible crime, and one that excited the people of the whole state as I have never seen them excited before. The Western Federation of Miners promptly offered a reward of \$5,000 for the detection and arrest of the murderers. The militia at once took steps to detect and arrest the criminals. Bloodhounds were employed, and for few days the public were led to believe that the guilty parties would be arrested; and it is now claimed that persons suspected of the crime are now under arrest. But I am not aware that anyone has been legally charged with this crime. I have not heard that the governor has offered a reward for the apprehension of the criminals.

Those who were hostile to the miners' union at once sought to bring about a change in the governor of the county by force, compelling to resign his office; a successor was forthwith appointed from the ranks of the union's enemies; the jury summoned by the lawful coroner discharged and a new jury called, who, as might be expected, without delay returned a verdict charging the union with the crime. In like manner, other officers of the county and its various municipalities were forced to resign, by threats of lynching and other forms of violence, until the Mine Owners' association and the Citizens' alliance supplanted with their creatures the lawfully chosen city marshal, sheriff, several aldermen, justices of the peace, etc.

In these high-handed proceedings, the perpetrators had the support of the military, and here is presented a condition, an overturning of law, and an armed resistance to and overpowering of the lawful authorities.

It had been a failure, and the sooner they recognized that fact the better it would be for them. But that did not save it from the barbarous hands of those who are crying out against the miners' union as an association not fit to exist.

The co-operative stores of the miners' union or the Western Federation of Miners, established for the benefit of the miners, four in number, were broken into by an armed force and a large amount of provisions and general supplies, estimated to be of the value of \$2,000, have been destroyed by the pretended champions of law and order.

The destruction of the Records' office and the supplies of the miners' stores was by parties well known. One man has been arrested for these crimes, but the man who "talks too much" spent a week in confinement under military orders.

Certainly at no time in the history of this state has there been such a state of anarchy as has existed in Teller, San Miguel and Las Animas counties under this military government during the last few months. It is certain that the laws have not been duly executed. Neither the personal nor property rights of the citizen have been secured. The state has incurred a great debt which will bear heavily upon the people in the immediate future. What is the result? Greater importance to us than the loss of money and payment of extra taxes, is the disgrace inflicted upon the state by the course of the military government.

Of Universal Concern

The press of the United States is almost a unit in condemning the methods employed by the military. It is a question that concerns the people of Colorado alone, but it concerns all the people of the United States. The religious, the Republican and the Democratic press alike condemn the action of the governor and his military government. Capital has taken alarm, not because of the striking miners, but from the open and notorious violation of both personal and property rights of citizens of the state and by the so-called government of the state. We cannot hope to secure competent workmen when it is known they are denied the protection of the laws by the governor and his militia.

Acts of the military authorities, not less than their utterances, show conclusively that they do not recognize the fact that their true and only function is to protect the rights of both parties to the controversy. Out of these conditions have arisen, on the contrary they act upon the theory that they are employed to disrupt the unions, and, indeed, they have openly declared that to be their purpose. The gross injustice of such a position is evident to all the world, and has brought our state into undervalued disrepute. It cannot be that the people of Colorado, when advised of the facts, will approve such a course.

Law Should Rule

The miners are not criminals or habitual violators of the rights of others. They are of the bone and sinew of our state, and through their labor the state has become rich and prosperous. They are entitled to the full protection of the law, and to a fair reward for their labor. To deny them either is an injustice to the whole commonwealth and a stain upon its reputation. Because individual miners, or even unions, have been guilty of violence or acts of lawlessness is no reason for charging the whole organization, including those who are honorable men, with crimes which are possible only to men devoid of all sense of humanity.

In a free government no man is so great that he is above the law, and no man is so weak and obscure that he is not entitled to the protection of the law, both in his person and property, and no man or combination of men can be allowed to violate the law under the pretense of public necessity or of maintaining peace and order, or that it is necessary for the punishment of criminals. Persons and property must be protected by law and not by the arbitrary action of military forces. Criminals must be punished by law and that only when by the legally established methods they are established to be criminals.

These questions should be considered calmly and an earnest effort made to conserve the interests of both parties, and, above all, to preserve the dignity of the law, and the welfare and reputation of the state, and this can be done only by private citizens and the official alike respecting and obeying the laws. Disobedience or nonobservance of the laws of the state is no less a crime when committed by a state officer, or in fact a greater crime than disobedience of nonobservance of the law by a private citizen.

SPOKANE CITIZENS PLAN TO BEAUTIFY

(Special Dispatch to The Journal.)

Spokane, July 20.—If the plans now being considered by some of Spokane's prominent citizens materialize, the "Municipal Art Society of Spokane" may become one of the important factors in the history of the city.

The purpose of this society will be to provide adequate sculptural and pictorial decorations for public buildings and parks in the city, and to promote in the city a beautifying of its streets and public places. The society would work in co-operation with the city council and lend advice and assistance in matters of municipal beauty.

It is suggested that the society may select one item of the work each year that seems most timely and practical to add to the city the most of beauty and interest.

MAY CHANGE GAME LAWS OF WASHINGTON

(Special Dispatch to The Journal.)

Seattle, July 20.—The game laws of Washington will be considered in every detail and recommendations for many changes will be formulated by the Washington State Game and Fish Protective association, which is to meet in Seattle August 10. Members of the association will be present from all parts of the state, and much interest is displayed in the event. The body has 500 members, and the organizations allied and affiliating with the association number 1,000 more.

The most important changes planned in the law relates to the game warden system. At present game protection is under the direction of the state fish commissioner, with a game warden in each county. It is proposed to elect a license of \$1 a year from hunters and employ five or six regular wardens at much higher salaries to cover the entire state, and it is believed that better results can be obtained by such an arrangement.

FORESTERS' BAND, 22 PIECES.

Will furnish music at Enticada hotel and pavilion tomorrow.

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But by acting now you have just as good a chance as any one else to win one of the other great prizes, or failing in this, to secure one of the 4800 or more smaller prizes.

5000 PRIZES FREE—VALUE \$40,000

HERE IS A SUMMARY OF THE PRIZES:

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3d Prize—A Conover Grand Piano..... Value \$4,000

8 Conover Cabinet Grand Upright Pianos.....	\$4,200
10 Kingsbury Upright Pianos.....	3,500
20 Apollo Piano Players.....	6,000
20 Chicago Cottage Organs.....	2,100
60 Grand Rapids Sectional Book Cases.....	1,000
80 Royal Sewing Machines.....	1,950
50 Kalamazoo Stoves and Ranges.....	1,500
50 Violins, Guitars, Mandolins and Banjos.....	2,500
50 Solid Gold, Gold Filled, Enameled and Jeweled Men's and Women's Watches.....	1,500
100 Columbia Graphophones.....	2,600
70 Al-Vista Panoramic Cameras.....	2,500
300 Pieces Heavy Quadruple Plate Silverware.....	1,250
100 Gem Safety Razors.....	350
100 Moore's Non-Breakable Fountain Pens.....	250
1,000 Volumes "Theodore Roosevelt".....	1,500
1,000 Volumes "Hodgson's American Homes".....	1,000
1,000 Volumes "Stephen G. Foster's Song Album".....	500
1,000 Song and Music Folios.....	500
Total.....	\$40,000

CONDITIONS OF THIS GREAT CONTEST

This contest is based on the total vote to be cast for the office of President of the United States, and will close at midnight, November 7th, 1904. The official figures of the government will determine the result, and the prizes will be awarded by a committee of distinguished judges. Estimators will receive a certificate for each estimate, and these will entitle the holders to such prizes as they may win. When the contest is decided each estimator will receive a printed list of the successful estimators.

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The total population of the United States (not including territories, the District of Columbia, Hawaii, the Philippines, and Alaska), in the year:

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commissioner, with a game warden in each county. It is proposed to elect a license of \$1 a year from hunters and employ five or six regular wardens at much higher salaries to cover the entire state, and it is believed that better results can be obtained by such an arrangement.

FORESTERS' BAND, 22 PIECES.

Will furnish music at Enticada hotel and pavilion tomorrow.

TEETH SPECIALS

EXTENDED UNTIL SEPT. 1

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Will make special low school rates in order that all school children may come and have their teeth cared for during vacation.

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